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Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

NO. 72-1087

IN THE

Supreme Court of the United States

OCTOBER TERM, 1972

JOHN RODNEY CARD, *Petitioner*

v.

UNITED STATES OF AMERICA, *Respondent*

PETITION FOR REHEARING OF ORDER DENYING PETITION FOR WRIT OF CERTIORARI

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Petitioner, John Rodney Card, respectfully prays that the Court reconsider its order denying his Petition for a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit, in the above entitled cause, entered by this Court on April 2, 1973, and grant the Petition.

As grounds for the Petition, Petitioner respectfully requests the Court's consideration of the following:

In *Baker v. Wingo*, 407 U.S. 517 (1972), this Court grappled with the question presented by Petitioner in his

Petition for Writ of Certiorari; "Denial of his constitutional right to a speedy trial." In rejecting a rigid approach to this ever increasingly complex fundamental right of all criminal defendants this Court stated:

> "The nature of the speedy-trial right does make it impossible to pinpoint a precise time in the process when the right must be asserted or waived, but that fact does not argue for placing the burden of protecting the right solely on defendants. A defendant has no duty to bring himself to trial; the State has that duty as well as the duty of insuring that the trial is consistent with due process." 407 U.S. 517, 523.

The approach finally settled upon by this Court was the method used successfully in weighing deprivation of other fundamental rights, an approach that balances on an *ad hoc* basis the conduct of both the prosecution and the defense. In implementing this test the Court suggested four factors which should be assessed in determining whether a particular defendant has been deprived of his right to a speedy trial. These four factors; "Length of delay, the reason for the delay, the defendant's assertion of his right, and prejudice to the defendant," are precisely the same reasons that Petitioner offered in his Petition for a Writ as evidence of his denial of a speedy trial.

This Court has mandated that henceforth all claims of denial of a speedy trial are to be determined by a "difficult and sensitive balancing process." Petitioner only seeks to have his claim determined in the same method and prays for this Court to review his Petition for Certiorari with the same factors that this Court has ordered all other Courts to review such claims.

CONCLUSION

For the following reason it is respectfully urged that this petition for a rehearing be granted, and that, upon further consideration, writ of certiorari issue to the United States Court of Appeals for the Fifth Circuit.

Respectfully submitted,

EDDINGTON & FRILOUX

By _____
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CERTIFICATE OF COUNSEL

I, C. Anthony Friloux, Jr., counsel for the above named Petitioner, do hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay, and that it is restricted to the grounds specified in Rule 58, subdivision 2, of the Rules of this Court.

_____
C. Anthony Friloux, Jr.
Counsel for Petitioner

CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing Petition for Rehearing of Order denying Petition for Writ of Certiorari to the United States Supreme Court were

mailed to Mr. Anthony J. P. Farris, United States Attorney, Federal Building, 515 Rusk Avenue, Houston, Texas, and the Solicitor General, Department of Justice, Washington, D.C. 20530 on the _____ day of April, 1973, by depositing same in the United States mail properly stamped and addressed.

_____

C. Anthony Friloux, Jr.